

Candice M. McHugh, ISB # 5908
MCHUGH BROMLEY, PLLC
380 S. 4th St., Ste. 103
Boise, Idaho 83702
Telephone: 208-287-0991
Fax: 208-287-0864

District Court - SRBA Fifth Judicial District In Re: Administrative Appeals County of Twin Falls - State of Idaho
APR - 6 2017
By _____ Clerk
_____ Deputy Clerk

Attorneys for McCain Foods USA, Inc.

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

McCain Foods USA, Inc.

Petitioners

vs.

GARY SPACKMAN in his official capacity
as Director of the Idaho Department of Water
Resources; and the IDAHO DEPARTMENT
OF WATER RESOURCES,

Respondents.

Case No.: CV01-16021480

**MOTION TO LIFT STAY AND
REQUESTING PROCEDURAL ORDER**

Petitioner, McCain Foods USA, Inc. ("McCain"), by and through its respective attorney of record, Candice M. McHugh, of the firm McHugh Bromley, PLLC, pursuant to this Court's December 7, 2016 *Ordering Granting Joint Motion to Stay Proceeding*, ("Order on Stay") requests that the Court lift the stay, issue a procedural order and proceed with the *Notice of Appeal and Petition for Judicial Review of Agency Action* ("Appeal") as filed.

On March 20, 2017, Sun Valley Company filed a *Notice of Withdrawal of Request for Hearing* on the Director's November 2, 2016 *Order Designating the Eastern Snake Plain Aquifer Ground Water Management Area*, ("GWMA Order"). The order upon which Sun Valley Company had requested an administrative hearing is the *GWMA Order* that is the subject of McCain's appeal. On March 30, 2017, the Idaho Department of Water Resources issued an *Order Extending Deadline for Petitions to Intervene; Notice of Continued Prehearing*

Conference and set April 20, 2017 as a continued prehearing conference. However, this Court's *Order on Stay* states that McCain "shall move the Court to lift the stay within 28 days of the Director's issuance of the final order." *Id.* at 2. Because the status of the November 2, 2016 Order upon which McCain's *Appeal* is based appears to be a final order with no administrative hearing request now pending before the agency, McCain is filing this *Motion to Lift Stay and Requesting Procedural Order* so as to not waive any of its rights under this Court's *Order on Stay* and in its *Appeal* as the continued pre-hearing conference will be after the 28 days after the date that Sun Valley withdrew its request for administrative hearing.

Based on the foregoing, McCain requests that the Court issue an order lifting the stay in the above captioned matter and issue a procedural order setting deadlines in the *Appeal*.

Respectfully submitted this 5th day of April, 2017.

MCHUGH BROMLEY, PLLC

By: _____

Candice M. McHugh

Attorney for McCain Foods USA, Inc

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of April, 2017, the foregoing was filed, served, or copied as follows:

GARRICK L BAXTER
EMMI L. BLADES
IDAHO DEPT OF WATER RESOURCES
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720
Garrick.baxter@idwr.idaho.gov
Emmi.blades@idwr.idaho.gov

Via US Mail, Postage Paid
 Via Facsimile -
 Hand-Delivered - Court Folder
 X Email

MATT MCGEE
MOFFATT THOMAS
PO BOX 829
BOISE ID 83701
mjm@moffatt.com

Via US Mail, Postage Paid
 Via Facsimile -
 Hand-Delivered - Court Folder
 X Email

SARAH A. KLAHN
MITRA M. PEMBERTON
WHITE & JANKOWSKI, LLP
511 SIXTEENTH STREET, SUITE 500
DENVER, CO 80202
(303) 595-9441
(303) 825-5632 (FAX)
sarahk@white-jankowski.com
mitrap@white-jankowski.com

Via US Mail, Postage Paid
 Via Facsimile -
 Hand-Delivered - Court Folder
 X Email

Courtesy Copy

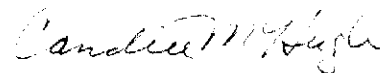
ROBERT E. WILLIAMS
ATTORNEYS AT LAW
153 EAST MAIN STREET
P. O. BOX 168
JEROME, IDAHO 83338
TELEPHONE: (208) 324-2303
FACSIMILE: (208) 324-3135
rewilliams@wmlattys.com

Via US Mail, Postage Paid
 Via Facsimile -
 Hand-Delivered - Court Folder
 X Email

Courtesy Copy

RANDALL C. BUDGE
THOMAS J. BUDGE
RACINE LAW OFFICE
201 E CENTER ST.
PO BOX 1391
POCATELLO, ID 83204
rcb@racinelaw.net
tjb@racinelaw.net

Via US Mail, Postage Paid
 Via Facsimile -
 Hand-Delivered - Court Folder
 X Email



Candice M. McHugh